AIR TRAFFIC CONTROLLERS PAY LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1912

TO AMEND TITLE 5, UNITED STATES CODE, TO AUTHORIZE THE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, TO PAY ADDITIONAL PREMIUM PAY TO AIR TRAFFIC CONTROLLERS AND CERTAIN OTHER EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION, AND FOR OTHER PURPOSES

DECEMBER 4, 1981

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AIR TRAFFIC CONTROLLERS PAY LEGISLATION

FRIDAY, DECEMBER 4, 1981

U.S. SENATE,
SUBCOMMITTEE ON CIVIL SERVICE,
POST OFFICE, AND GENERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 2:06 p.m., room 3302, Dirksen Senate Office Building, Hon. Ted Stevens (chairman of the subcommittee) presiding.

Present: Senator Stevens.

Staff present: Wayne Schley, staff director; J. Knox Walkup, minority staff director; Pat Halcomb, chief clerk; Merry Halamandaris, minority staff assistant; Becky Gernhardt; Eileen Mayer; Larry Holman, legislative fellow; Bill Allard, legislative fellow.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Good afternoon. The purpose of today's hearing is to receive testimony on legislation I have introduced to provide special recruitment incentives for the restaffing of our air traffic controller system. This legislation also recognizes the need to promote pay equity between new controllers and those controllers who remained on the job during the strike.

To save time, the rest of my statement will be printed in the record here.

I also want to place in the record following the full text of my opening statement the legislation that I have introduced and that you have described, along with a section-by-section analysis of it so it will be available.

[The prepared statement of Senator Stevens, the text of S. 1912, and the section-by-section analysis follows:]

PREPARED STATEMENT OF SENATOR TED STEVENS

It is important that we mention at the onset of this hearing the fine job performed by the men and women in the FAA who have kept our air traffic control system operating both safely and efficiently since the controllers strike in early August. Few of us would have anticipated that despite the magnitude of the controllers walk-out, our air traffic system is operating at about 80 percent of the pre-strike commercial traffic levels. We owe these people our recognition and gratitude.

The task the government is now faced with is an accelerated restaffing of our air traffic control facilities at the appropriate and necessary levels to insure the continued safety of the flying public. Special recruitment procedures and increased emphasis on controller training will be necessary. This proposal will provide the FAA with the tools needed to help meet first their short term recruitment needs and provide the basis for longer term stability in the air traffic control function.

I would like to end my statement by explaining the scope of this hearing. I understand that there were some press reports that the White House has announced that it is considering the issue of possible Federal employment for the fired air traffic controllers outside of the air traffic control function. I am restricting this hearing solely to the contents of the legislation I proposed this morning dealing with compensating certain FAA employees.

II

97TH CONGRESS
1ST SESSION

S. 1912

To amend title 5, United States Code, to authorize the Administrator, Federal Aviation Administration, to pay additional premium pay to air traffic controllers and certain other employees of the Federal Aviation Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 4 (legislative day, NOVEMBER 30), 1981

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To amend title 5, United States Code, to authorize the Administrator, Federal Aviation Administration, to pay additional premium pay to air traffic controllers and certain other employees of the Federal Aviation Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding subsection (a)(1) of this section, the Administrator, Federal Aviation Administration, may pay

an individual training to be an air traffic controller of such Administration, during the period of such training, at the applicable rate of basic pay for the hours of training officially ordered or approved in excess of 40 hours in an administrative workweek.".

SEC. 2. Section 5532 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is temporarily employed, during the period described in paragraph (2) or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to recruit or train others to perform such duties.

"(2) The provisions of paragraph (1) of this subsection shall be in effect for any period ending not later than December 31, 1984, during which the Administrator, Federal Aviation Administration, determines that there is an unusual shortage of air traffic controllers performing duties under the administrative authority of such Administrator.".

SEC. 3. (a) Chapter 55 of title 5, United States Code, is amended by inserting after section 5546 the following new section:

"§ 5546a. Differential pay for certain employees of the Federal Aviation Administration

"(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator') may pay premium pay at the rate of 5 percent of the applicable rate of basic pay to—

"(1) any employee of the Federal Aviation Administration who is—

"(A) occupying a position in the air traffic controller series classified not lower than GS–9 and located in an air traffic control center or terminal or in a flight service station;

"(B) assigned to a position classified not lower than GS–10 or WG–10 located in an airway facilities sector; or

"(C) assigned to a flight inspection crewmember position classified not lower than GS–11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

"(2) any employee of the Federal Aviation Administration who is assigned to a flight test pilot position classified not lower than GS–12 located in a region or center, the duties of whose position are determined by the Administrator to be unusually taxing, physically or mentally, and to be critical to the advancement of aviation safety.

"(b) The premium pay payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.".

(b) The analysis of chapter 55 of such title is amended by inserting after the item relating to section 5546 the following new item:

"5546a. Differential pay for certain employees of the Federal Aviation Administration.".

SEC. 4. Section 5546a of title 5, United States Code (as added by section 3 of this Act), is amended by adding at the end thereof the following new subsections:

"(c)(1) The Administrator may pay premium pay to any employee of the Federal Aviation Administration who—

"(A) is occupying a position in the air traffic controller series located in an air traffic control center or terminal;

"(B) is not required as a condition of employment to be certified by the Administrator as proficient and

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medically qualified to perform duties including the separation and control of air traffic; and

"(C) is so certified.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 percent of the applicable rate of basic pay for so long as such employee is so certified.

"(d)(1) The Administrator may pay premium pay to any air traffic controller of the Federal Aviation Administration who is assigned by the Administrator to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 percent of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration provides on-the-job training.

"(e)(1) The Administrator may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration who, while working a regularly scheduled 8-hour period of service, is required by his supervisor to work during the 4th through 6th hour of such period without a break of 30 minutes for a meal.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 percent of one-half of the applicable hourly rate of basic pay.

"(f)(1) The Administrator shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration are to be paid premium pay under this section.

"(2) The Administrator may prescribe such rules as he determines are necessary to carry out the provisions of this section.".

SEC. 5. Section 5547 of title 5, United States Code, is amended by adding at the end thereof the following: "The first sentence of this section shall not apply to any employee of the Federal Aviation Administration who is paid premium pay under section 5546a of this title.".

SEC. 6. Section 8339(e) of title 5, United States Code, is amended by inserting before the period "unless such employee has received, pursuant to section 8342 of this title, payment of the lump-sum credit attributable to deductions under section 8334(a) of this title during any period of employment as an air traffic controller and such employee has not deposited in the Fund the amount received, with interest, pursuant to section 8334(d) of this title".

SEC. 7. Section 8344 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Subject to paragraph (2) of this subsection, subsections (a), (b), (c), and (d) of this section shall not apply to any annuitant receiving an annuity from the Fund while such annuitant is employed, during any period described in section 5532(f)(2) of this title or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to recruit or train other individuals to perform such duties.

"(2) Paragraph (1) of this subsection shall apply only in the case of any annuitant receiving an annuity from the Fund who, before August 3, 1981, applied for retirement or separated from the service while being entitled to an annuity under this chapter.".

SEC. 8. (a) The amendments made by sections 2, 3, and 7 of this Act shall take effect at 5 o'clock ante meridiem, eastern daylight time, August 3, 1981.

(b) The amendments made by the first section and sections 4 and 5 of this Act shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this Act.

(c) The amendment made by section 6 of this Act shall take effect on the date of the enactment of this Act.

AIR TRAFFIC CONTROLLER PAY LEGISLATION

BILL ANALYSIS

Section 1

This section amends title 5 to allow an air traffic controller trainee to be paid for training hours over 40 in a week. Currently, no pay is allowed for hours of training over 40 a week.

Section 2

This section allows dual pay (pay for active duty and retired pay) for former uniformed service personnel who are temporarily reemployed by the FAA. This authority given to the FAA Administrator terminates no later than December 31, 1984.

Section 3

This section allows the FAA Administrator to pay a 5% premium to certain FAA employees in the air traffic control series and certain other employees also involved in the air traffic control function. This premium is computed on top of other premiums.

Section 4

This section allows a 1.6% differential for individuals who stay certified in the air traffic control function. It also allows a premium for those training others in live air traffic. Lastly, it provides a premium for those who must work through lunch.

Section 5

This section lifts air traffic control personnel from the Grade 15 premium pay ceiling.

Section 6

This section clarifies redeposit of retirement contributions for air traffic controllers. This section makes it clear that a controller is entitled to a 50% minimum annuity only if he has redeposited into the Civil Service Retirement Fund all withdrawals the employee had previously made from the Fund.

Section 7

This section allows annuitants to be reemployed and to receive full active pay as well as full retired pay while temporarily on duty.

Section 8

This section sets the effective dates for the previous sections.

Senator STEVENS. I want to thank the witnesses for coming on such a short notice today. I do believe that the Senate has already recognized the problem of air controller pay legislation, and we want to address it again. The main reason for the hearing today is to satisfy those who raised the question about whether the authorizing committee had, in fact, held hearings.

We do appreciate the Deputy Secretary and the Administrator of the FAA coming to help us make certain that we will not face any obstacles due to a lack of a hearing on the matter if it is raised during debate on this issue.

Gentlemen, proceed as you wish. We are looking forward to hearing your comments.

TESTIMONY OF DARRELL M. TRENT, DEPUTY SECRETARY, DEPARTMENT OF TRANSPORTATION

Mr. TRENT. Good afternoon, Mr. Chairman. I have a short statement I would like to submit for the record. Secretary of Transportation Lewis is out of the country at this time; otherwise, he would have been here in my place making this presentation because we place a very high priority on the good work that has been done by those members of the FAA who are air traffic controllers.

We appreciate very much your interest in moving quickly to recognize the outstanding work that has been done by the air traffic controllers and those members of the Federal Aviation Administration that have worked since August 3 to carry out the responsibilities of our Department in meeting the air transportation needs of the traveling public.

A number of difficulties have existed since that time. The long hours of dedicated work of these employees have been recognized by the Secretary of Transportation, and the Administrator of the FAA. We believe our commitment to a 6.6-percent pay increase, that was made as a part of the bargaining package in June in an agreement that was signed by Drew Lewis and Mr. Poli on behalf of the PATCO union, should be carried forward as soon as possible, together with a number of other changes that are proposed as a part of the bill that has been introduced here in the Senate.

I think basically that covers the overview of the position that we would represent. I would turn to Administrator Helms and ask him to go into some more of the specifics of the proposal.

Senator STEVENS. Thank you very much, Mr. Secretary.

Mr. Helms?

TESTIMONY OF J. LYNN HELMS, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Mr. HELMS. Mr. Chairman, I also appreciate the opportunity to appear with Deputy Trent today before this committee. I will submit a full statement for the record.

Briefly summarizing the major portions of it, however, I would call the committee's attention to the fact that only employees at or above specified grade levels could be eligible for the operational responsibility that we are proposing.

In no way is this a preferential piece of legislation for all FAA employees. Additionally, coverage is intended to apply to supervisory personnel in the field facilities, and I emphasize field facilities, where

they will control live traffic as well as employees at the working level so an inequitable pay structure is not established by the FAA.

For other employees to be eligible and to receive the differential, they must be at or above specified grade levels, and the FAA Administrator must determine that the duties of their positions are directly involved in or responsible for the operation and maintenance of the air traffic control system, again, referring to live traffic.

Most of the employees covered by this aspect of the legislation are called upon to work nights, weekends, and holidays. Some are called upon to work outdoors under all kinds of climatic conditions to keep our navigation system operating safely.

There is a request at this time for relief from the limitation of premium pay because of the combination of base pay and under some conditions, working on holidays, nights, or Sundays.

Air traffic control, of course, goes 24 hours a day, 7 days a week. As such, we must go under rotating shifts and each employee is scheduled for a specific work shift in accordance with the needs of the air traffic control system.

One of the items included is what we refer to as operational currency pay for air traffic controllers. We value these people very highly that are promoted and have progressed to a supervisory position and, also, we need their experience on the various staffs to insure that the operational decisions made on software, equipment, scheduling, route structuring, et cetera, are made with the idea of complete knowledge being available from the operational controller.

Therefore, we have included a 1.6-percent premium pay for those people if they maintain their operational currency.

A key part of the air traffic controller's job is on-the-job training. This is a significantly meaningful one to us, because this must be conducted one on one. There is basically one full-level controller that spends his time and oversees controlling of live air traffic by a student, if you will, or a trainee. This puts him in a position, then, of having to make certain that this trainee gives instructions—and this involves live traffic—properly.

We have proposed a premium pay of 10 percent of their basic pay only for the period of time they are performing this function.

We also have included a provision for premium pay for the loss of a meal period. As I noted earlier, we do not have the capacity to automatically predict flow of traffic, and as such, there are times that it goes up unexpectedly. We cannot allow the employees to leave their work station for lunch. In those conditions, we think that it is proper that the employee should receive time and a half of his basic rate for a ½-hour meal break. We have included that in there.

One of the greatest potential sources of talent to us is the reemployment of civil service annuitants and retired military. In fact, we have a pool of over 3,000 retired controllers. These are people who have retired and over the last 2 years, that could come back in a very short period of time to help us.

The legislation which we have submitted specifically sunsets on December 31, 1984, as regards bringing these annuitants back aboard. But they offer us a tremendous source of talent that we could use during this 24-month time period of rebuilding.

Present law does not allow us to pay a trainee for work over 40 hours a week. The specific intent of that law, of course, was that a person should not be paid overtime while he is training to be paid for a full-time job. However, in the case of getting the air traffic

control system back in operation as rapidly as possible, we have requested that a trainee can be paid straight time, not time and a half, for those hours in excess of 40 hours in a week. This gives us the option of requesting that trainee to take on additional training.

In closing, Mr. Chairman, I, again, urge the members of the committee to grant early and favorable consideration to this legislation. I emphasize that our people have been working efficiently and safely, and safety is, of course, the thing which we have undertaken foremost to maintain.

In summary, this legislation contributes materially to the early rebuilding of our air traffic control system.

The Deputy Secretary and I would now welcome any questions that the chairman or other members might have at this time.

Senator STEVENS. Thank you very much. There were other Senators that were going to join me today, but they have been detained because of votes on the floor right now. I do apologize for that.

I also want to state that there is no intention here to get involved in any of the subjects that have been raised as to questions of dealing with those who did not stay on the job. There have been some press reports concerning comments that may or may not have been made by the President in his meeting with the labor leaders.

I don't consider that issue to be part of this hearing today, and I don't intend to go into it. I would like to get to the questions of those grading problems at the air traffic controllers academy.

I think those might be raised in connection with this legislation that is before us. What were those problems, Mr. Administrator?

Mr. HELMS. Mr. Chairman, with your permission, I would like to ask Mr. Benjamin Demps, who is the director of the Mike Monroney Aeronautical Center in Oklahoma City and who has conducted the detailed investigation, to answer those questions. He can give them to you specifically. I fear that my answers might be in a general form.

Senator STEVENS. Thank you. Would you join us, please? Do you want to state your name for the record, please?

TESTIMONY OF BENJAMIN DEMPS, JR., DIRECTOR, FAA MIKE MONRONEY AERONAUTICAL CENTER, OKLAHOMA CITY, OKLA.

Mr. DEMPS. My name is Benjamin Demps, Jr. I am director of the FAA Mike Monroney Aeronautical Center in Oklahoma City, Okla.

Senator STEVENS. You investigated this question of the grading problems at the academy?

Mr. DEMPS. Yes, Mr. Chairman, I did. I reviewed the situation beginning particularly on Saturday, the 21st, I believe it was, for an entire week following and ferreted out all of the details and did comparison runs on score sheets and what-not.

I absolutely confirm the fact that there was no manipulation or intent to manipulate student grades.

Senator STEVENS. Were any of those grades changed?

Mr. DEMPS. Yes, sir, they were.

Senator STEVENS. What was the reason for that?

Mr. DEMPS. The reason for the change was to correct errors in the reporting of the grades.

Senator STEVENS. I see.

Mr. DEMPS. There were 19 grades changed in total, and 7—from 7 fail, 3 pass, to 7 pass, 3 fail, and 9 other changes that were made that did not affect the students' pass-fail position.

Senator STEVENS. Who has the responsibility to review these student failures and the problem of adequate instruction at the academy?

Mr. DEMPS. The Air Traffic Branch Chief, the person in charge of that training operation, is solely responsible to review and study the evidence, all evidence of grades brought to him to determine whether or not a student's failure or passing is proper.

In point of fact, prior to coming to your hearing, I just left a meeting with two members of my staff and with members of the staff of the House committee investigating this matter. My opinion is, my observation is that there are bits and pieces of this question of grading that when put together, don't stand up to be anything more than correction of errors in grading sequence throughout the course; that is, the normal editing, correction of grading that we do and have been doing since 1976.

Senator STEVENS. You don't see anything out of the ordinary then in the manner in which those grades were reviewed and properly evaluated. Is that your testimony?

Mr. DEMPS. There were some situations that were different than before. We compressed our review process as a result of some rumors that had reached the press on Thursday and Friday during that period, that management had been manipulating grades.

We compressed, time-compressed the three separate review procedures that we had so that we could get to the bottom of the thing and report out the accurate scores.

So in that situation, rather than taking, perhaps, an additional week or two for our Civil Air Medical Institute personal pyschologist to do that editing, I ordered that to be done that following Monday.

Senator STEVENS. Thank you very much. I appreciate your testimony.

Mr. Helms, on the House floor in the debate, the argument was raised that the controllers under the proposal that we have advanced now in the Senate could receive a pay raise of up to $10,000. Is that figure accurate?

Mr. HELMS. No, sir, Mr. Chairman; that is not correct. The actual average increase, per controller, since that was the question, of the controller, under the proposed legislation is $30 a year different than it was under the agreement which the Secretary and the president of the former bargaining unit reached.

Essentially, there is no change, and the average figure is $2,840.

Senator STEVENS. I see. I have seen figures that show that a GS–15 supervisor could earn an annualized rate of over $100,000. Will that occur?

Mr. HELMS. No, sir; that couldn't occur, either, and I——

Senator STEVENS. A lot of Members of Congress will be volunteering for service soon if that is true. [Laughter.]

Mr. HELMS. From reading the discussion on the House floor, I can only interpret—and I emphasize, it is my interpretation—that that question arose as a result of applying the premium pay on a holiday, on overtime and assuming that that same rate applied for the 365 days a year.

Of course, that is not the real world. No controller could reach $100,000, Mr. Chairman.

Senator STEVENS. This legislation does not discriminate against anyone on the basis of their being a member of a union or having been a member of a union as far as the unit was decertified or any other union activity, does it?

Mr. HELMS. That is correct, sir. It actually covers people in three unions, whereas the original package which had been discussed publicly, of course, was the package that had been negotiated only with PATCO. The reason that the remainder of the package was not discussed publicly was because it involved two other unions, and it would not have been fair to those union members to discuss packages which were not directly related to their own bargaining unit.

In fact, we have the former president of one of the locals who—his membership, basically, went out on strike. He continued to work. He is still an employee, and he will receive this benefit.

Mr. TRENT. Mr. Chairman, we have computed the number of employees who would be covered in this package who could be union members currently. That would be almost 50 percent of the total.

Senator STEVENS. What about the fairness aspect with regard to some of the supervisory personnel? I was worried that the original agreement would cover employees, particularly those who were members of unions, but would not cover their supervisors and their managers.

Is this one now balanced so that it will apply to all people and we don't have the disparity of some employees actually getting paid more than their supervisors or the managers of their offices?

Mr. HELMS. Yes, it will, Mr. Chairman, to the extent the supervisors are actively engaged in functions related to as live traffic.

For example, a man could be in the Air Traffic Division but be assigned to a function at a staff headquarters and having nothing to do with traffic control. He would not receive that additional benefit, but the same man, on being assigned to a control center and engaged in live traffic, would get the benefits which have been accorded to supervisors. We have explicitly tailored this to the revitalization of the air traffic control system.

It is not a preferential pay package, nor is it an attempt to raise all FAA employees' pay.

Senator STEVENS. I don't think there is a Member of the Senate that spends as much time either in commercial airlines or in private planes flying due to the distance within my State and to my State. I want you to know that I have the highest confidence in this air traffic system.

I want to ask you the question for the record: Is there any reason to doubt the safety of our system and the ability of the people who are operating it, who continue to operate it through this continued transition now, particularly through the holidays? Is there any problem at all in our system in your opinion?

Mr. HELMS. There is absolutely no problem with safety, in my opinion, Mr. Chairman. We have probably been the most reviewed, investigated, summarized, and analyzed agency of the Government over the last 4 months. We have had review teams from Australia, New Zealand, Canada, the United Kingdom, Holland, Sweden, and France. In addition, we have had the National Transportation Safety Board, the Flight Safety Foundation, we have had members

of the Airline Pilots Association in our centers, and we have had our own review.

No one of those groups, at any time, under any condition has identified an item for me which they classified as a safety item. Incidentally, Mr. Chairman, I might note that in the NTSB's summary, the first three items of that report were not reported publicly. Specifically, the first item said they identified nothing which indicated unsafe working conditions or unsafe procedures.

The second one was there were no policies or procedures that had been abrogated or were not being followed.

The third was they found no item in which supervision was taking short cuts or in any way directing action which was unsafe.

It was the fourth item which said there was a potential of fatigue I had made that statement public on August 6, that I was no longer concerned about the ability of our people to handle traffic. I was concerned 90 to 120 days downstream when our people might become fatigued. Since that time, we have been able to increase our capacity by virtue of supervisors, military people brought aboard. We now have some 800 pilots working for us and hence freed up air traffic controllers to the primary task of controlling air traffic.

We have no one assigned to over 48 hours a week. Our average workweek is approximately 46 hours. We have 38 percent of our force now, as of yesterday, that is on a 40-hour week.

Collectively, our capacity to handle traffic has steadily increased. In summary, Mr. Chairman, the system is probably safer today than it was before because we have extended the distance between air traffic from 4 miles under some conditions—or 10—up to 20 and 30 miles. I have absolutely no qualms about the safety of the system.

We did have one lucky break, by the way, over the last 6 days. During the Thanksgiving holidays, we were given a chance to test the capacity of the system for holiday traffic. The system worked better than we had anticipated. We established three levels: a minimum; an average or moderate; and a peak level of optimism. We exceeded that peak level of optimism.

The second item that helped us out was 6 hours of bad weather does not really upset the system. We require at least 24 hours and preferably 36 hours of bad weather. That allows us to truly test our capacity because it involves an air carrier flying an airplane over three or four sites and perhaps leaving it at a different site than he prefers to, to restage it for his route structure.

We have now had over 37 hours of bad weather over Sunday through Tuesday of this week. Again, the system worked better than we had anticipated. In fact, we were able to handle more traffic than we expected. Despite the fact that we reduced the traffic loadings to the carriers through December 1 to the 75 percent level, we actually handled the 78 percent level. At Key Towers, we handled traffic at the 91 percent level.

In summary, Mr. Chairman, I have absolutely no qualms about the safety of the system. It is recovering right on schedule or a little bit better than we had anticipated.

Mr. TRENT. Two weeks ago, Secretary Lewis and I met with representatives of pilots of most of the major airlines and had an opportunity to spend more than an hour talking with them about the condition of the system.

We were very pleased during that period that we didn't run into criticisms that would in any way relate to safety, and we had almost complete support for all of the different parts of the operation today as compared to the previous operation before the August 3 strike took place.

Senator STEVENS. There was an interesting comment from some pilots on a private jet I was on the other day. They told me they thought the system was more appreciated now. I said, "Why?"

One of them said, "I think we are much more grateful to these guys than we used to be." It was an interesting comment.

What is the cost of this in terms of appropriations? Do you have additional money required this year if this bill passes?

Mr. HELMS. No, sir. It does not, Mr. Chairman. It is contained in the ongoing funding anticipated for the FAA. It does not require additional funding.

Senator STEVENS. There must be some increase in the total cost in the out years. Have you got any figures you could give us for the record on that?

Mr. HELMS. Yes, sir. We do have the outyear funding requirements. In the first year, it is $57 million, for 1982. For 1983, it is $61 million; for 1984, I believe it is $67 million; and for 1985, it is $71 million. I will verify.

It is $61 million, excuse me, in 1983; $67 million in 1984; $72 million in 1985; and $76 million in 1986.

Senator STEVENS. You have mentioned the annuitants and the provisions in this bill to assist in paying those people. Has there been a substantial interest expressed by annuitants to return to some part-time employment?

Mr. HELMS. We have had as many as 300 at one time or another. In fact, we average about 250; I think we have 256 aboard now, but many of them have indicated that if they did not face the penalty of losing their annuity—and incidentally, the average that we have shows that it is about $16,000 or $17,000—that they would get very interested in it.

That is the reason we want to track them. But we recognize the potential long-term impact on the Federal civil service system. Therefore, this provisison of the bill will sunset on December 31, 1984. We are not looking at this on a long-term basis at all.

Senator STEVENS. As you know, I support that provision, and I think it makes sense. Do you really see an absolute necessity to have this bill enacted this year? That is the main purpose of the hearing, to reaffirm the feeling that it is necessary, but on behalf of the Department and the FAA, do you share the feeling that this is the bill that ought to be enacted and approved by the President this year?

Mr. TRENT. Mr. Chairman, for those individuals who stayed after August 3, and continued to operate the system, beyond the hours of the regular 40–hour work week, and in recognition of the work undertaken by the supervisors and those other support personnel that has allowed the system to operate as close to previous capacity as it has during this difficult period, we think we need to recognize their contribution and service and also the pressure that they were under to not appear for work during the early days of the strike. As the period has gone on, additional pressures have been called to the Secretary's attention and to my attention. Yet those individuals have stayed in

place and have done a job that we think enables them to have at least a pay level that was promised to them before the strike as a part of the original package with PATCO.

Senator STEVENS. Gentlemen, I thank you for taking your time and helping us establish the record. For the hearing here this afternoon, I am sorry, I must leave. I am the manager of the bill on the floor.

I wanted to make certain we had this record before the continuing resolution came back at us. I appreciate your courtesy in coming on such short notice so that we can have this record if a question is raised on the floor again.

Mr. HELMS. To aid the chairman, we welcome questions that may be submitted in writing by other members of the committee at a later date, Mr. Chairman.

Senator STEVENS. Thank you very much. We will inquire and see if there are any. If there are any, we will transmit them to you.

Thank you very much.

Mr. HELMS. Thank you.

Mr. TRENT. Thank you.

Mr. DEMPS. Thank you.

[The prepared statements of Mr. Trent and Mr. Helms follow:]

PREPARED STATEMENT OF DARRELL M. TRENT, DEPUTY SECRETARY OF TRANSPORTATION

Mr. Chairman and Members of the Committee: I welcome the opportunity to appear before the Committee today to testify in support of a bill proposed by the Department of Transportation. The bill would recognize the dedicated work being performed by key FAA operational employees and assist us in our efforts to rebuild the air traffic system. Secretary Lewis has asked me to express both his appreciation to the Committee for holding these hearings and his regrets that a long-standing commitment to be out of the country prevents him from being here today.

The legislation before you today fulfills a commitment that this Administration made in good faith to the working controllers who stood by their oath and stood by their responsibility to the public, keeping our air traffic control system operating safely and efficiently.

The safety mission performed by these FAA employees is vital to our air transportation system. This legislation can contribute to the United States' unmatched air safety record.

Under the tentative agreement we reached with PATCO last June, we agreed to seek legislation that would have provided an average pay increase of 6.6 percent to our controller workforce. When that tentative agreement was rejected by PATCO and the strike occurred, we assured our working controllers that we would stand by our promise and propose legislation for those who remained on the job. The legislation before you is intended to provide the same average 6.6 percent pay increase called for in the tentative agreement signed earlier.

Since Administrator Helms will describe the details of our proposed legislation, I won't go into those at this time. There are, however, two key issues that I would like to comment on for the Committee. The first deals with the timing of our submission of the legislative package to the Congress, and the second with its cost.

One criticism which has been raised is that DOT had waited until early November to submit its legislation to the Congress; yet, at the same time, was arguing for its early enactment. Let me respond, first, by saying why we believe the legislation merits prompt enactment by the Congress.

The people who have been called upon to keep our country's air traffic moving safely and efficiently in the wake of the PATCO strike have performed in extraordinary fashion. The amount of traffic moved safely during that time shows clearly that these people have carried out their jobs in the best tradition of public service. We believe these efforts merit recognition now, not at some time in the future.

As to why we did not submit the proposed legislation to the Congress until the beginning of November, the answer is simple. Since we had been negotiating with PATCO over the content of legislation we would recommend to the Congress, we

concluded that it would be inappropriate to propose legislation affecting air controller pay until a decision was handed down by the Federal Labor Relations Authority on the issue of PATCO's status. In late October, the FLRA decided to decertify PATCO. Our legislative proposal to the Congress followed promptly thereafter.

Let me now address some of the questions regarding the cost of this package.

We project the cost of this legislation to be $57.4 million in fiscal year 1982. The tentative agreement we had reached with PATCO, later rejected, would have cost $40 million for controllers and $4 million for supervisors, a total of $44 million. Apparently the difference between those two figures, particularly since we have fewer controllers now, has led to the assumption that our package must exceed the 6.6 percent we originally agreed to support before the Congress. That is not the case.

The differences in the two proposals relate to those being covered.

Where $40 million was estimated for all the controllers in the PATCO bargaining unit, a total of $21 million is currently estimated for the 9,100 controllers now at work. At the time we negotiated the tentative contract with PATCO, we also intended to cover our supervisory controller personnel as well, although they were not in the bargaining unit. The cost of coverage for those employees was not included in the $40 million publicized in connection with that tentative agreement, but it was accounted for in our budgetary planning.

In the interest of equity, we are also proposing coverage for other key players in the operation and maintenance of our air traffic control system, along with flight test pilots. This treatment is warranted in recognition of the responsibilities they all undertake in behalf of the flying public.

Therefore, the legislation before you costs more than the $40 million package with PATCO because it includes FAA operational and supervisory personnel outside the former bargaining unit of the controllers. To put these costs in perspective, originally a population of 17,500 would have received $44 million in pay increases. Now, a population of 26,500 employees will receive pay increases totalling $57.4 million.

In closing, I would urge the expeditious approval of this legislation by the Committee. It is important to recognize at this time the many outstanding contributions FAA employees made in the aftermath of the illegal controllers' strike. Let me also emphasize that these same employees will continue to be called upon to carry out substantial responsibilities on behalf of the people who depend upon our national air transportation system. The employees covered by this legislation have assisted us in achieving a level of aviation safety unequaled anywhere else in the world. Their responsibilities, their achievements and their commitment to public service merit our recognition and—in my judgment—justify the benefits we are proposing.

Mr. Chairman, that completes my prepared statement. I turn now to Administrator Lynn Helms who will outline for you the major features of our legislative proposal.

PREPARED STATEMENT OF J. LYNN HELMS, FEDERAL AVIATION ADMINISTRATOR

I appreciate the opportunity to appear today with Deputy Secretary Trent before the Committee to discuss this legislative proposal that is so important to the FAA. I join with Deputy Secretary Trent in urging its early enactment by the Congress.

As the Members of the Committee know, I have been traveling extensively throughout the country to see the FAA in action and meet the people who make the system operate on a day-to-day basis. I can tell you that, following the controllers' strike, I have seen throughout the country a level of teamwork and dedication in the FAA second to none. These people are proud, and deservedly so, of the contributions they have made to their country. I can assure you it has not been without personal sacrifice on the part of many people. For example, many have volunteered to return temporarily to their former air traffic facilities to increase capacity. They have made these efforts because they know how vital our air transportation system is to our Nation.

The legislation before you recognizes the contributions these people have made already to our air traffic system as well as the valuable services they will render in the future.

Let me take a few minutes now to briefly outline the major features of our legislation.

OPERATIONAL RESPONSIBILITY DIFFERENTIAL

We have proposed that FAA air traffic controllers and other designated kinds of employees be provided a differential of 5% of their base pay in recognition of the important operational functions they perform. Employees who are potentially covered by this provision are air traffic controllers; flight service station specialists; electronic technicians, engineers, and related personnel who maintain the air traffic control system; flight inspection crewmembers who monitor the performance of the air traffic system from the air; and flight test pilots who are involved in the certification of aircraft and aircraft components. Only employees at or above specified grade levels could receive this differential since it is intended to recognize operational responsibilities which are not generally assumed by a developmental employee at lower grade levels.

Coverage is intended to apply to supervisory personnel in field facilities as well as employees at the working level, so that an inequitable pay structure is not established.

For a flight test pilot to receive the operational responsibility differential, he must be at or above the GS–12 level and the FAA Administrator must determine that the duties of his position are both unusually taxing and critical to the advancement of safety in the national airspace system. For other employees to be eligible and to receive the differential, they must be at or above specified grade levels and the FAA Administrator must determine that the duties of their positions are directly involved in or responsible for the operation or maintenance of the air traffic control system. Thus, the Administrator would be granted discretion to make coverage determinations within the statutory guidelines that will be established.

Most of the employees covered by this aspect of the legislation are called upon to work nights, weekends, and holidays. Some are called upon to work outdoors under all kinds of climatic conditions to keep our air navigation aids performing properly. All play a key role in keeping our air transportation system running safely and efficiently.

RELIEF FROM LIMITATION ON PREMIUM PAY

An employee who receives the operational responsibility differential will be eligible to exceed the limitation on aggregate pay (i.e., base pay plus premium pay) which is established by section 5547 of title 5. This relief from the limitation on premium pay will accomplish two important objectives. First, it recognizes that a number of our air traffic controller supervisors and controllers are at or near the pay cap. This means that premium pay for working holidays, nights, or Sundays either cannot be paid to them or cannot be paid in the amount otherwise earned, and contributes to morale problems in our field workforce. Relief from the limitation on premium pay will cure that inequity. Second, without relief from the limitation on premium pay, a number of individuals who are covered by our legislative proposal will not be able to receive the pay called for in the legislation.

I know there have been concerns expressed about this aspect of the legislation. In response to those concerns, I would point out that overtime pay under the Fair Labor Standards Act is not currently limited by 5 U.S.C. 5547, meaning that there are already Federal employees who exceed the aggregate pay limit. In that respect, the premium pay covered in this legislation would be treated the same as FLSA overtime.

OPERATIONAL CURRENCY PAY FOR AIR TRAFFIC CONTROLLERS

We are proposing that controllers and controller supervisors whose positions do not require them to maintain their operational and medical certification to control traffic be granted premium pay of 1.6% of their basic pay if they do obtain and maintain those qualifications. This provision is intended to provide a pool of additional controller talent to assist us in meeting the capacity needs of the system in the short-term and to provide added flexibility in the future. The kinds of employees who could receive this premium pay occupy positions such as training officers and airspace procedures specialists at air traffic facilities. They are people who have worked their way up through the controller ranks and now occupy positions in which the duties do not require them to maintain their proficiency in controlling traffic.

ON-THE-JOB TRAINING PAY FOR AIR TRAFFIC CONTROLLERS

We have proposed that air traffic controllers who are called upon by the FAA to provide on-the-job training to other controllers who are engaged in controlling live air traffic be entitled to premium pay of 10% of their basic pay for the period of time they perform that function. This extra pay is intended to recognize the additional responsibility a controller must assume when he oversees the training of another controller who is separating and controlling live air traffic.

Since the provision is tied to on-the-job training given to another controller engaged in controlling live air traffic, it would not cover classroom training or training with simulated traffic on computers.

PREMIUM PAY FOR LOSS OF MEAL PERIOD

In our legislation, we have proposed to compensate an air traffic controller at a rate of 1½ times his basic rate of pay for ½ hour if, during an eight-hour shift, his supervisor cannot release him from duty for a ½ hour meal break. Certainly it is our policy to provide such a meal break, but there are nevertheless occasions, particularly in our smaller air traffic control facilities, where a meal break may not be feasible. Therefore, we would provide added compensation to controllers for the extra work they are called upon to perform when a meal break cannot be provided.

EMPLOYMENT OF CIVIL SERVICE ANNUITANTS AND RETIRED MILITARY PERSONNEL

We have proposed that the FAA be granted short-term authority to temporarily employ retired civil servants and military personnel in air traffic control work and related training functions without requiring a reduction in annuity or salary. This authority would expire on December 31, 1984, and is intended to provide an incentive to former FAA employees and qualified military retirees to seek short-term employment with the FAA. I want to emphasize that this unusual authority is requested for a specified duration only, and is intended to provide a ready source of qualified people as an interim measure while the air traffic control system is restaffed to the appropriate levels.

PAY FOR TRAINING IN EXCESS OF 40 HOURS IN A WEEK

We are proposing that, should it become necessary or desirable for the FAA to schedule air traffic controller training for more than 40 hours in a week, air traffic controller trainees be able to receive their basic hourly rate for each hour they undergo training in excess of those 40 hours. This provision would provide trainees with equitable compensation for extra time in a training status.

In closing, Mr. Chairman, I would again urge the Members of the Committee to grant early and favorable consideration to this legislation. The people who have made our air traffic system work so efficiently and safely—and I emphasize "safely," because our system is every bit as safe today as it was before the strike—deserve your favorable attention.

That completes my prepared statement, Mr. Chairman. Deputy Secretary Trent and I would be pleased to respond to questions you may have at this time.

Senator STEVENS. The subcommittee will stand in recess.

[Whereupon, at 2:33 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

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